

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTONSTRATEGIC INTENT, LLC, d/b/a  
PALOUSE FALLS BREWING  
COMPANY, *et al.*,

Plaintiffs,

v.

STRANGFORD LOUGH  
BREWING COMPANY LIMITED,  
*et al.*,

Defendants

NO. CV-09-309-RHW

**ORDER TO SHOW CAUSE AND  
ORDER GRANTING IN PART  
PLAINTIFFS' UNOPPOSED  
MOTIONS, *INTER ALIA***

Before the Court are Plaintiffs' Motion for Leave to File Second Amended Complaint (Ct. Rec. 120), Motion for Partial Summary Judgment (Ct. Rec. 124), Motion for Sanctions (Ct. Rec. 149), and Motion for Entry of Default as to All Defendants (Ct. Rec. 162). The Court held a telephonic hearing on these motions on March 3, 2011. John Giesa appeared on behalf of Plaintiffs; Anthony Davies appeared *pro se*; all other Defendants failed to appear. This order memorializes the oral rulings the Court made at the hearing.

Defendants have failed to respond to any of Plaintiffs' Motions, despite the Court's order that they do so (Ct. Rec. 145). Under Local Rule 7.1(e), the Court considers Defendants' failures to respond to be consent to the entry of adverse orders. After an independent review the Court also finds Plaintiffs' motions to have merit. Therefore, the Court grants in part the relief Plaintiffs seek. Specifically, the Court grants in their entirety Plaintiffs' Motion for Leave to File Second Amended Complaint (Ct. Rec. 120) and Motion for Partial Summary Judgment (Ct. Rec.

1 124), and grants in part Plaintiffs' Motion for Sanctions (Ct. Rec. 149).

2 The effect of this relief, in sum, is that Defendants will be prohibited from  
3 calling any witnesses and introducing any exhibits at trial, and will be limited to  
4 cross-examining Plaintiffs' case-in-chief. However, Plaintiffs do not claim that  
5 Defendants' failures to participate in discovery have prejudiced Plaintiffs' ability  
6 to prove their own case, which they have the burden to do. Therefore, the Court is  
7 not prepared at this time to enter a default judgment against Defendants, and  
8 reserves ruling on Plaintiffs' Motion for Entry of Default as to All Defendants (Ct.  
9 Rec. 162).

10 Nonetheless, based on Defendants' failures to participate in this case, the  
11 Court is concerned that Defendants will not appear at trial, ultimately resulting in a  
12 default judgment. Such a result would waste judicial resources and cause Plaintiffs  
13 further needless expense. All Defendants, including the corporate Defendant  
14 Strangford Lough Brewing Company Limited, remain unrepresented in this matter.  
15 The corporate Defendant cannot proceed *pro se* under Local Rule 83.6, as the  
16 Court has previously made clear on several occasions. All Defendants except  
17 Defendant Davies failed to appear at telephonic status conferences held on  
18 February 3, 2011, and March 3, 2011, despite the Court's orders that they do so  
19 (Ct. Recs. 141 and 145). Defendants have failed to respond to any of Plaintiffs'  
20 Motions, again in defiance of the Court's order (Ct. Rec. 145). Defendants have  
21 failed to fulfill any of their obligations set forth in the Court's Scheduling Order  
22 (Ct. Rec. 88), including failing to file witness and exhibit lists, disclose expert  
23 witnesses, and designate deposition testimony. Most importantly, Defendants  
24 failed to confer with Plaintiffs and file a joint Pretrial Order, as they were directed  
25 to do in the Scheduling Order. Plaintiffs have filed their own proposed Pretrial  
26 Order without Defendants' contributions (Ct. Rec. 166). Without Defendants'  
27 contributions, it is not clear to the Court what, if any, factual and legal issues  
28 remain to be resolved at trial in this matter.

**ORDER TO SHOW CAUSE AND ORDER GRANTING IN PART  
PLAINTIFFS' UNOPPOSED MOTIONS, *INTER ALIA* \* 2**

1 Therefore, on or before March 9, 2011, each Defendant shall Show Cause in  
2 writing why a default judgment should not be entered, and shall identify with  
3 specificity what issues remain to be resolved at trial.

4 At the hearing, Defendant Davies orally moved for a continuance, which the  
5 Court denied for the reasons set forth on the record. The Court also stayed all  
6 remaining pretrial deadlines until receiving and ruling on Defendants' response to  
7 the Order to Show Cause.

8 Accordingly, **IT IS HEREBY ORDERED:**

9 1. Plaintiffs' Motion for Leave to File Second Amended Complaint (Ct.  
10 Rec. 120), Motion for Partial Summary Judgment (Ct. Rec. 124), and Motion for  
11 Sanctions (Ct. Rec. 149) are **GRANTED**.

12 2. Defendants' Motion for a Protective Order (Ct. Rec. 104) is **DENIED**.

13 3. The Court reserves ruling on Plaintiffs' Motion for Entry of Default as to  
14 All Defendants (Ct. Rec. 162). On or before **March 9, 2011**, each Defendant shall  
15 Show Cause in writing why a default judgment should not be entered, and shall  
16 identify with specificity what issues remain to be resolved at trial. The Court shall  
17 hear argument on the issue at the pretrial conference set for **March 11, 2011, at**  
18 **9:00 a.m.** At the appointed time, the parties shall call the Court's conference line at  
19 509-458-6382.

20 4. Should this matter proceed to trial, Defendants will be prohibited from  
21 calling any witnesses and introducing any exhibits, and will be limited to cross-  
22 examining Plaintiffs' case-in-chief.

23 5. Defendant Davies' oral motion to continue is **DENIED**.

24 6. All pending pretrial deadlines are **STAYED** until the Court rules on  
25 Defendants' response to the Order to Show Cause.

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28 **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
**ORDER TO SHOW CAUSE AND ORDER GRANTING IN PART**  
**PLAINTIFFS' UNOPPOSED MOTIONS, *INTER ALIA* \* 3**

1 Order and forward copies to Plaintiffs' counsel and the individual Defendants at  
2 their addresses of record.

3 **DATED** this 3<sup>rd</sup> day of March, 2011.

4  
5 *s/Robert H. Whaley*  
6 **ROBERT H. WHALEY**  
7 United States District Judge

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